



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 19, 2004

Ms. Pam Guenther  
City Attorney  
P.O. Box 107  
201-A North Wells  
Edna, Texas 77957

OR2004-7048

Dear Ms. Guenther:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 207723.

The City of Edna (the "city"), which you represent, received a request for the copies of all reports of vandalism and thefts, as well as all arrest reports for possession of narcotics, at local car washes during a specified time period. You claim that some of the requested information is excepted from disclosure pursuant to section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.<sup>1</sup>

You claim that portions of the requested information are excepted from disclosure pursuant to section 552.108(a)(2) of the Government Code. Section 552.108(a)(2) protects records pertaining to criminal investigations or prosecutions that have concluded in a final result other than conviction or a deferred adjudication. *See* Gov't Code § 552.108(a)(2). You state that the criminal investigation associated with this particular information did not lead to an arrest of one of the suspects involved in this matter. Thus, we understand from your representations that the criminal investigation associated with this information concluded in a final result other than conviction or deferred adjudication. Accordingly, we agree that

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<sup>1</sup> We note that you have redacted some of the information that the city seeks to withhold. This office cannot review redacted information. In the future, you must submit the information at issue in a manner that enables this office to determine whether the information is excepted from disclosure. *See* Gov't Code §§ 552.301(e)(1)-(2), .302.

section 552.108(a)(2) is applicable to this particular information, and the city may withhold the marked information from disclosure.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this

ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Barenblat", with a long horizontal flourish extending to the right.

Marc A. Barenblat  
Assistant Attorney General  
Open Records Division

MAB/jh

Ref: ID# 207723

Enc. Submitted documents

c: Mr. Charles A. Hood  
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Port Lavaca, Texas 77979  
(w/o enclosures)